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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,692

07/27/2006

Segen Farid Estefen

10008.011

7041

7590 11/10/2009  
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EXAMINER

JETTON, CHRISTOPHER M

ART UNIT

PAPER NUMBER

3748

MAIL DATE

DELIVERY MODE

11/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/587,692	<b>Applicant(s)</b> ESTEFEN ET AL.	
	<b>Examiner</b> CHRISTOPHER JETTON	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Receipt is acknowledged of applicant's amendments filed 7/13/2009. Claims 1-4 have been cancelled without prejudice. Claims 5-8 are pending and an action on the merits is as follows.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification provides no structural or functional detail as to how the "moveable claws co-operable with said outflow adjustment needle" are constructed or operated. The "claws" are also unrecognizable in the drawings.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 5 and 6** are rejected under 35 U.S.C. 102(b) as being anticipated by **Berg (US 4,792,290)**.

**Regarding claim 5**, Berg (Fig 1 & 5-7) discloses a wave energy plant for electricity generation, said plant comprising: a fixed structure (22 & 97); a float (21); a generally horizontally disposed mechanical arm (24) having an end (26) connected to said float (21); said mechanical arm (24) having an opposite end (27) articulately connected to said fixed structure (28, 97); a hydraulic pump (29) for pumping water, said hydraulic pump (29) being actuated by said mechanical arm (24); a hyperbaric chamber (56) having an inlet in fluid communication (54) with said hydraulic pump (29) and an outlet (59), said hyperbaric chamber (56) storing pressurized water (57) delivered by said hydraulic pump (29); a turbine (61) in fluid communication with said hyperbaric chamber outlet (56, 59); an electric generator connected to said turbine (61 Col 7 Lines 40-41); whereby pressurized water is supplied to said turbine through said hyperbaric chamber outlet to drive said turbine and to generate electricity (Col 7 Lines 38-41).

**Regarding claim 6**, Berg discloses the hyperbaric chamber (56) contains a mixture including water and air (Col 7 Lines 34-38).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 7 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Berg (US 4,792,290) in view Pennington et al (US 3,521,853)**.

**Regarding claims 7 and 8**, Berg (Fig 5) discloses an outflow regulating valve connected to the hyperbaric chamber outlet (59), but fails to disclose the structural detail as claimed.

However, Gillis teaches a regulating valve with outflow adjustment needle (24) and a valve distance adjustment ring (20) disposed around said main body.

The figures of Berg's invention depict a valve located between the hyperbaric chamber and the hydroelectric generator but little detail is provided. One having ordinary skill in the art, however, would be able to identify the function of this valve and ascertain the requirements to be satisfied to ensure proper flow of pressurized water to the hydroelectric generator. Further, it appears that the invention would perform equally well with Gillis' valve since Applicants have not disclosed that their outflow regulating valve solves any nonobvious stated problem or is for any particularly unknown purpose and.

It would have been obvious to one of ordinary skill in the art to modify Berg's invention with the regulating valve taught by Gillis since all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as

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claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Berling (US 5,921,082) discloses all the claimed limitations, Waters (US 4,105,368) discloses all the claimed limitations, Brumfield (US 6,574,957), Chino et al (US 5,027,000), and Testa (US 4,281,257).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER JETTON whose telephone number is (571)270-7108. The examiner can normally be reached on Monday through Friday, 7:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571)272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E. Denion/  
Supervisory Patent Examiner, Art Unit 3748

/CHRISTOPHER JETTON/  
Examiner, Art Unit 3748